IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 29.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.450 of 2006

Motcharagini ... Petitioner

Vs.

1.The Superintendent of Police,
Cuddalore District,
Cuddalore.

2.The Inspector of Police,
Kullanchavadi Police Station,
Kullanchavadi.
Cuddalore District.

3.Anthonisami. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct respondents 1 and 2 to physically produce the petitioner's son Arokia Vincent Raj @ Raj in Court and to set him at liberty.

For Petitioner : Mr.Gururaj
For Respondents 1 and 2 : Mr. Babu Muthumeeran A.P.P.
Mr. Anthonisami
R3 Party in person

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Motcharagini filed this petition seeking direction to respondents 1 and 2 to produce her son Arokia Vincent Raj @ Raj in Court and set him at liberty.

2. Based on the averments in the affidavit filed in support of the above petition, we have ordered notice to the respondents.

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3. The third respondent Anthonisami appeared before us. We enquired him.

4. Before considering the statement of the third respondent, it is useful to refer the earlier order dated 24.03.2005 passed in HCP No.298 of 2005, wherein the very same petitioner has filed the said petition seeking similar direction. At that time, as per the earlier petition, her son was missing for the past 17 years. After hearing the counsel for the petitioner and the Additional Public Prosecutor, the Division Bench has passed the following order:

> "3. According to learned Additional Public prosecutor, the investigation conducted in this case discloses that the petitioner who lost her husband 17 years back, joined with another man. The son of the petitioner who is now a major, left Bombay for a job and now he is working in some company at Bombay. Even though it is mentioned that the petitioner has complained to the police even for the past 17 years, and that on several occasions, she had given complaint to the respondent-Police, no action had been taken.
>
> 4. Learned counsel for the petitioner is not able to produce any document to show that such a complaint was presented before the Police.
>
> 5. Admittedly, the son's age is 20 years. Even according to the petitioner, who is aged 60 years, is taken care of by her son-in-law. In the absence of any material to show that the son, who is aged about 20 years and who is alleged to be working in a company at Bombay, is detained against his will, the question of his illegal custody under anybody does not arise.
>
> 6. Hence, the habeas corpus petition could not be entertained and the same is accordingly dismissed."

5. In view of the earlier order of this Court, which was passed on factual information, we are of the view that no further enquiry is needed in this petition. However in view of the appearance of the third respondent, we enquired him. According to him, he is settled at Bombay and doing petty business. He also stated that at the request of the petitioner, her son and daughter were entrusted 17 years ago. When both of them were living with him, according to him, one day both quarrelled due to which the son of the petitioner, who is the detenu in this petition, left his home. He has also stated that he made a complaint to the police regarding the same. He has further stated that in spite of the best efforts, till this date, he is not in a position to locate the son of the petitioner. According to the third respondent, this had happened 17 years ago.

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6. Taking note of the statement of the third respondent and the factual details as available in the order dated 24.03.2005, we are of the view that no further adjudication is required in this petition and accordingly, the same is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

raa

To

1.The Superintendent of Police, Cuddalore District, Cuddalore.

2.The Inspector of Police, Kullanchavadi Police Station, Kullanchavadi.
Cuddalore District.

3. The Public Prosecutor, High Court, Madras.

1 cc to Mr.R. Gururaj, Advocate, Sr. 28013

HCP. No.450 of 2006

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